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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/533,480

10/24/2005

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04/09/2008

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EXAMINER

LEWIS, RALPH A

ART UNIT

PAPER NUMBER

3732

MAIL DATE

DELIVERY MODE

04/09/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



### **Informalities in Claim Amendments**

Applicant has used double brackets "[[an]]" throughout the amended claims (e.g. claim 1, line 10). It is unclear what applicant is intending to convey, the rules allow for single brackets ("[abc]") of words to be deleted. Additionally, the examiner is at a complete loss as to what applicant is attempting to accomplish with double brackets and underlining (e.g. "[an]", claims 32 and 33). Is the language to be simultaneously inserted and deleted?

### **Rejections based on 35 U.S.C. 112, second paragraph**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 32 and 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 32, lines 2 and 3 are awkward and confusing. In line 13, element "(ii)" the new limitation "by means of a screw" is not understood. The "fastener" is identified throughout the claims as a screw (note claim 3) and is presumed to be in reference to disclosed element 89, accordingly it is unclear how "engaging the coping screw and coping component with an implant by means of a screw" is accomplished. In line 19, element "(v)" the "screw" should apparently be the "fastener."

In claim 34, it is unclear how the recited structure relates to that previously set forth in parent claim 1. The claiming of previously claimed elements with different names without reference to the elements set forth in the parent claim is confusing and indefinite.

### **Rejections based on Prior Art**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-31 and 34-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Willoughby (US 6,283,753).

Willoughby discloses at Figures 27A and 27 B an impression coping system for impression molding techniques comprised of (1) an implant fastener/attachment means (the illustrated screw) which is capable of engaging an implant (in Figure 27A and B it engages plastic tube 57), (2) a coping 53 which engages the screw and is to be encased in the impression material, (3) a mountable and removable extender 61 which is dimensioned to protrude from the impression material to provide access to the screw

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and (4) spacer element 55. In regard to claim 7, nearly any element is "adapted to be cut." In regard to claim 11, the actual person who assembles the device fails to make the device itself patentable. In regard to claim 17, the reasons as to why the spacer might be removed fails to impose any objectively ascertainable structural distinctions from the device disclosed by Willoughby. In regard to claim 20, the Willoughby spacer 55 is "split" in that the top profile is different from the bottom profile.

In response to the present rejection applicant argues that cylinder 53 of Willoughby is an "implant analog" and not a "coping" as claimed. Applicant offers no structural distinctions between an element referred to as an "implant analog" and an element referred to as a "coping," only that they have different names and intended different uses. It is well settled, however, that a prior art element (i.e. cylinder 53) does not become patentable merely because applicant calls it by a different name and/or intends a different use for it. There must be a clear objectively ascertainable structural distinction set forth in the claim(s).

Applicant further argues that Willoughby discloses a system using a plurality of different screws rather than one "single sized implant fastener" as claimed. The examiner notes that only a single screw has been referred to in the rejection. The single screw is of a single size (as are all screws).

Applicant is urged to set forth clear and distinct structural differences from the prior art, rather than arguing that the broadly claimed elements have different names or have a different intended use.

Claims 1-3, 9-19, 21, 22, 25-31, 35, 36 and 37 are rejected under 35 U.S.C. 102(e) as being anticipated by Beaty et al (US 6,619,958).

In Figures 17C and 17d Beaty et al disclose an impression coping system comprised of an implant fastener screw 186 (note Figure 12a), impression coping 290, extension means 292 and a removable spacer element 184.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 32, 33 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Willoughby (US 6,283,753).

In the Figure 27A and 27B arrangement, Willoughby uses the extender 61 for making an impression of a model with implant analog 57 instead of directly from an implant in a patient's mouth as in figures 26A and 26B. To have merely used the Figure 27A, 27B extension member 61 impression technique for obtaining an impression directly from the patient's mouth as illustrated in Figures 26 would have been obvious to one of ordinary skill in the art.

Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beaty et al (US 6,619,958).

To have constructed the spacer element 184 of Beaty et al of a conventional plastic material (which inherently has some degree of elasticity) would have been obvious to one of ordinary skill in the art as a matter of routine selection of common readily available materials for the Beaty et al device.

Claims 32, 33, 34, 38, 54 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beaty et al (US 6,619,958) in view of Lazarof (US 5,681,167).

Beaty et al disclose the claimed method of positioning a coping 290 on implant fastener 186 and fastening the fastener 186 to implant 182. Beaty et al further disclose the use of impression material about the coping 290 (note column 14, lines 58-67), but doesn't further explain the conventional making of a master cast with an implant analog. Lazarof, however, teaches the common steps of taking an impression of the implant 50 having coping 154 installed thereon (Figures 29 and 30), attaching an implant analog 140 to the coping embedded in the impression (Figure 38) and then forming a model of the teeth and implant with the implant analog installed therein (Figures 39 and 40). To have continued the Beaty et al method with the conventional method of producing a model as taught by Lazarof would have been obvious to one of ordinary skill in the art.

**Action Made Final**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication should be directed to **Ralph Lewis** at telephone number **(571) 272-4712**. Fax (571) 273-8300. The examiner works a compressed work schedule and is unavailable every other Friday. The examiner's supervisor, Cris Rodriguez, can be reached at (571) 272-4964.

R.Lewis  
March 31, 2008

/Ralph A. Lewis/  
Primary Examiner, Art Unit 3732